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10/035,613	10/17/2001	Mark Maggenti	000211D1	4460

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

NGUYEN, THUAN T

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,613

Applicant(s)

MAGGENTI ET AL.

Examiner

THUAN T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-24 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 25 and 26 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection. Please disregard the previous office action, and this office action replace the previous one, with claims 1-26 are pending for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, and 11-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigler et al. (U.S. Patent No. 5,717,830/ or "Sigler") in view of Brown et al. (US Patent 6,185,423 B1).

Regarding claim 1, Sigler discloses an exact system and method for a push-to-talk communication device to participate in a group communication net over a distributed network (Figs 1 & 9 for including other networks such as PSTN, MTS, private networks even to LAN and WAN networks including the Internet with IP or TCP/IP of the Internet are addressed in col. 1/lines 14-20 for satellite communication network, col. 3/line 64 to col. 4/line 11 for LAN/WAN, col. 13/lines 38-43 for mobile network, and in the Glossary, col. 44 & 49 for IP and TCP/IP). Within this communication system, Sigler discloses a system and its corresponding technique for reducing latency in a group communication method comprising the step of determining whether

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any media frame belonging to a communication protocol is lost, wherein the media frame is directed to the communication device, and modifying the communication protocol accordingly if the media frame is lost, i.e., the Remote Monitor System does this function to monitor and determine whether a media frame is lost and notifies the NOC controller (col. 15/lines 15-30) and the NOC working as a main controller to modify the issue or problem (Fig. 3, NOC NCC as a controller for maintaining information about users within the network at customer management information system, col. 2/line 43 to col. 3/line 40).

Applicants argues that Sigler only monitors "loss of signal, loss of frame sync, and excessive BER, and generates alarm reports if any of these occurs", and although "loss of frame sync" suggests the loss of frame because some frames might be missing or lost to make "loss of frame sync", in other words, the synchronization of frames is mismatched due to loss of frame; furthermore, Brown lightens up the issue as Brown shows that while monitoring a group communication of portable and wireless communication devices (Brown, Fig. 1 and col. 5/lines 1-34), Brown's system detects the loss of frame within a communication protocol, and modifying the communication protocol accordingly (Brown, col. 2/lines 3-45 & col. 5/line 55 to col. 6/line 9 while scanning and sweeping frames for available and quality communication channels, and Figs. 3 & 4 and col. 7/line 65 to col. 8/line 63 for modifying steps and selecting the best communication channels based on the detection for the loss of media frames). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sigler's system with Brown's teaching technique in monitoring the loss of media frames belonging to a communication protocol and modifying them appropriately for the loss of media frames as taught by Brown.

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As for claim 2, in further view of claim 1 above, Brown further teaches the routine check for requesting the lost media frame by using quick scanning (col. 5/line 55 to col. 6/line 9 as a communication channel is missed within the list, refers to the loss of media frame creates the missing channel).

As for claims 3 and 4, in further view of claim 1 above, Brown further teaches the sending occurs after a predetermined time period (col. 7/lines 20-41 for a timer after a period of time for checking whether a sweep frame signal exist or not), and the result is created as a list for indication of no last used channel in the list, which refers to the loss of frame creates the missing channel, and the channel is not listed, see col. 6/lines 47-62).

As for claim 5, Sigler further discloses wherein the communication device includes a push-to-talk device, i.e., a controller to manage the group communication net and interfacing with push-to-talk communication device (col. 10/lines 10-24 & col. 17/line 25 to col. 18/line 8),

Regarding claims 6-7, Sigler further provides a method for reducing latency in a group communication network, comprising receiving a request for a user of the communication device to initiate a group call, for instance, allowing or unregistering the user to engage in the group communication, by sending a message to a communication device for determining whether the communication wishes to stay a participant in the net and listing the communication device as a participant in the net if the communication device responses or sends a response within a predetermined time period (col. 17/line 38 to col. 18/line 36 for the user engages in the net communication group or deactivating from it; and col. 22/line 50 to col. 23/line 44 for call monitoring whether a communication device is active or not within a net communication group); including of a dormant mode, wherein the group communication net is capable of offering, as a

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user is being detected for inactive for a period of time and a technique for reactivate the standby mode or dormant mode as with the user's activation prompting the controller to activate the group communication net (col. 30/line 54 to col. 32/line 25 for standby modes).

Sigler does not show the receiving of media from the user before processing the request and buffering the received media for later transmission to a controller; however, Brown shows that while monitoring a group communication of portable and wireless communication devices (Brown, Fig. 1 and col. 5/lines 1-34), Brown's system detects the loss of frame within a communication protocol, and modifying the communication protocol accordingly (Brown, col. 2/lines 3-45 & col. 5/line 55 to col. 6/line 9 while scanning and sweeping frames for available and quality communication channels, and Figs. 3 & 4 and col. 7/line 65 to col. 8/line 63 for modifying steps and selecting the best communication channels based on the detection for the loss of media frames and the received media, and the received media is received from the user before processing the request at the controller system as in Figs. 2-4 and discussed earlier in previous claims). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sigler's system with Brown's teaching technique in monitoring the loss of media frames belonging to a communication protocol and the received media at the controller system and modifying them appropriately for the loss of media frames and buffering the received media frame for later transmission as taught by Brown.

As for claims 11 and 12, in further view of claim 6 above, Brown further suggests the memory unit for buffering the received media is located in the communication device (Fig. 1, item 108) and is located in the controller of the system (col. 4/lines 15-34 for apparatus for communication among a network of base stations).

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As for claims 13-24, these claims for a computer readable medium, a communication device with a receiver, a transmitter, a processor and a memory unit with same limitations as addressed earlier are rejected for the reason given in the scope of claims 1-8 and 11-12 in view of Sigler and Brown, not limited to the cited paragraphs but also to the entire disclosure of references of Sigler and Brown.

Allowable Subject Matter

4. Claims 9-10 and 25-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

As for claims 9-10 and 25-26, the prior arts do not suggest the further step of "signaling the user to stop sending media if a memory unit for buffering the received media runs out of space before the request is completely processed and media communication is not established between the communication device and the controller" and "transmitting the buffered media to a target receiver if a memory unit for buffering the received media runs out of space before the request is completely processed but media communication is established between the communication device and the controller" as cited therein.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Prytz and Smith et al (PTO 892 attached) disclose systems related to media frames and the detection of media frame loss.

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7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for Technology Center 2600 only)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate Fridays off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TONY T. NGUYEN
PATENT EXAMINER**

Tony T. Nguyen
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April 12, 2005